

REMARKS

Status of the Claims

Claims 24-52 are presented. No claims are amended. No claims are cancelled. No new claims are added.

No new matter has been introduced.

Summary of the Invention as Claimed

One aspect of the subject matter as claimed is directed to a wax dispersion with an average particle size of 0.5 to 100 μm comprising (a) a wax phase with a melting point above 25°C comprising at least one oil or wax component selected from the group consisting of dialkyl(ene) ethers, dialkyl(ene) carbonates, dicarboxylic acids, hydroxyfatty alcohols and mixtures thereof, and at least one emulsifier, and (b) a water phase (claims 24-43). Another aspect of the subject matter as claimed is directed to a process for the production of such a wax dispersion (claims 44-50). Yet another aspect of the subject matter as claimed is directed to a body care preparation comprising such a wax dispersion (claims 51-52).

Rejections under 35 U.S.C. § 103(a)

Claims 24-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lewis (US 6,953,500) in view of Kainz. (US 5,743,949); over Lewis in view of Kainz, further in view of Warner (US 5,525,345); and over Lewis in view of Kainz, further in view of Bucheler et al. (US 4,996,004). It is noted, however, that no grounds of rejection were explicitly given for claims 51-52. Applicants respectfully submit that the rejection of at least these claims is therefore improper, and clarification regarding the allowability of claims 51-52 is requested.

Thus, Lewis is the primary reference relied upon by the Examiner for all grounds of rejection.

Applicants respectfully submit that the pending claims are patentable over the cited references notwithstanding the Examiner's rejection. This is because the Examiner has mistakenly characterized isopropyl palmitate in Lewis (Table 1 and claim 5) as a "dialkylene ether" (Office Action, page 2, paragraph 1 and following). Isopropyl palmitate is not only not a dialkylene ether, is it not even an ether. As one skilled in the art would certainly understand, isopropyl palmitate is an **ester**. Esters and ethers are commonly recognized as distinct chemical species.

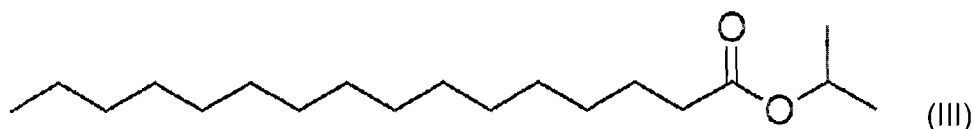
It is well known that ethers have the chemical structure (I)



It is equally well known that esters have the chemical structure (II)



The structure of isopropyl palmitate is (III)



which is clearly an ester and not an ether.

In addition, isopropyl palmitate could not serve as a wax component, because it is a liquid at room temperature, with a melting point of 13.5°C (see copy of Wikipedia entry for isopropyl palmitate). Further, Lewis does not recognize isopropyl palmitate as a wax component, but rather as a softening

agent for his wax component (col. 8, lines 43-46 and claim 5). Finally applicants do not claim esters, specifically isopropyl palmitate, as primary wax components.

The addition of Kainz, Bucheler and/or Warner does not cure the deficiency in Lewis.

In summary, the Examiner's obviousness rejection is improper, and the pending claims are in condition for allowance. The Examiner is respectfully requested to reconsider, withdraw the rejections and allow the claims. If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

January 12, 2009

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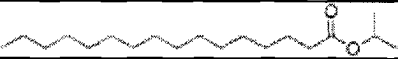
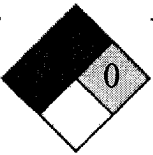
Isopropyl palmitate

From Wikipedia, the free encyclopedia

Isopropyl palmitate is a palm oil based emollient, moisturizer, thickening agent, and anti-static. The chemical formula is $\text{CH}_3(\text{CH}_2)_{14}\text{COOCH}(\text{CH}_3)_2$.

References

- [^] MSDS

Isopropyl palmitate ^[1]	
	
IUPAC name	hexadecanoic acid isopropyl ester
Other names	Hexadecanoic acid, 1-methylethylester
Identifiers	
CAS number	142-91-6
PubChem	8907 (http://pubchem.ncbi.nlm.nih.gov/summary/summary.cgi?cid=8907) [show]
SMILES	
Properties	
Molecular formula	$\text{C}_{19}\text{H}_{38}\text{O}_2$
Molar mass	298.50
Density	0.8525 g/cm ³
Melting point	13.5 °C, 287 K, 56 °F
Solubility in water	Insoluble
Hazards	
NFPA 704	
Except where noted otherwise, data are given for materials in their standard state (at 25 °C, 100 kPa) Infobox references	

(http://www.sciencelab.com/xMSDS-Isopropyl_palmitate-9924417)

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Categories: Cosmetic chemicals | Lipids | Palmitates | Ester stubs

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